

Message Text

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DRAFTED BY COM/BIEPR/OIFI/ISD ERGRAUMAN
APPROVED BY EB/OA/AVP:AJWHITE
COM/BIEPR/OIFI/ISD ANALEXANDER
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FM SECSTATE WASHDC
TO AMEMBASSY LAGOS

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E.O. 11652: N/A

TAGS: EAIR, ETRD, NI

SUBJECT:CIVIL AVIATION: RECIPROCAL EXEMPTION FROM CUSTOMS
DUTIES AND TAXES ON AIRCRAFT SUPPLIES

1. NIGERIA AIRWAYS HAS APPLIED FOR EXEMPTION FROM PAYMENT
OF TAXES AND CUSTOMS DUTIES ON AIRCRAFT SUPPLIES IN THE
U.S. IN ACCORDANCE WITH SECTIONS 309 AND 317 OF THE TARIFF
ACT OF 1930 AND SECTION 4221 OF THE INTERNAL REVENUE CODE
OF 1954.

2. SECTIONS 309 AND 317 PROVIDE FOR THE EXEMPTION OF AIR-
CRAFT OF FOREIGN REGISTRY FROM PAYMENT OF CUSTOMS DUTIES,
AND INTERNAL REVENUE TAXES IMPOSED BY REASON OF IMPORTATION
ON SUPPLIES IMPORTED INTO THE U.S. FOR USE BY SUCH AIRCRAFT
IN THEIR OPERATIONS TO AND FROM THIS COUNTRY. SECTION 309

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MAKES SUCH EXEMPTION CONTINGENT UPON A FINDING BY THE
SECRETARY OF COMMERCE THAT THE COUNTRY OF REGISTRY OF SUCH
AIRCRAFT ALLOWS "SUBSTANTIALLY RECIPROCAL PRIVILEGES" TO
AIRCRAFT OF U.S. REGISTRY.

3. SECTION 4221 CONTAINS PROVISIONS SIMILAR IN ALL MATER-
IAL RESPECTS TO SECTION 309 OF THE TARIFF ACT OF 1930.

SECTION 4221 EXEMPTS AIRCRAFT OF FOREIGN REGISTRY FROM PAYMENT OF INTERNAL REVENUE TAXES ON SUPPLIES PROCURED IN THE U.S. DOMESTIC MARKET FOR USE BY SUCH AIRCRAFT IN THEIR OPERATIONS TO AND FROM THE U.S. EXEMPTION UNDER SECTION 4221 IS ALSO CONTINGENT UPON A FINDING OR RECIPROCITY BY THE SECRETARY OF COMMERCE.

4. THE TERM "SUPPLIES" AS USED IN THESE STATUTES COVERS A WIDE RANGE OF ARTICLES USED BY AIRCRAFT IN INTERNATIONAL OPERATIONS. THE PRINCIPAL CATEGORIES ARE FUELS AND LUBRICANTS, CONSUMABLE SUPPLIES (INCLUDING COMMISSARY STORES) AND SPARE PARTS. SECTION 309 OF THE TARIFF ACT OF 1930 FURTHER INCLUDES GROUND HANDLING AND SUPPORT EQUIPMENT, BUT SECTION 4221 OF THE INTERNAL REVENUE CODE DOES NOT.

5. IN ORDER TO AFFORD A BASIS FOR APPROPRIATE FINDINGS, THE EMBASSY IS REQUESTED TO A) ASCERTAIN THE CUSTOMS AND EXCISE TAX TREATMENT ACCORDED BY THE GOVERNMENT OF NIGERIA WITH RESPECT TO AIRCRAFT SUPPLIES IMPORTED INTO THAT COUNTRY OR PROCURED LOCALLY BY U.S. AIRLINES, B) OBTAIN CITATIONS TO THE STATUTES AND REGULATIONS OR ADMINISTRATIVE RULINGS THAT FORM THE LEGAL BASIS FOR EXEMPTION, AND C) ASCERTAIN FROM LOCAL OFFICE OF PAN AM THE DUTY AND TAX TREATMENT THAT IT ACTUALLY RECEIVES IN NIGERIA.

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6. DEPARTMENT RECOGNIZES CONSTRAINTS IMPOSED BY CURRENT PERSONNEL SITUATION AT EMBASSY. WITHIN THOSE CONSTRAINTS, EMBASSY REQUESTED TO RESPOND AS SOON AS POSSIBLE. VANCE

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